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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,931	09/16/2003	John Higgins	03-029-JH	2331

7590

12/22/2005

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EXAMINER

BUI, LUAN KIM

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/663,931	Applicant(s) HIGGINS, JOHN	
	Examiner Luan K. Bui	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,8 and 12-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,8 and 12-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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After further reconsideration of the Office Actions mailed on 1/10/2005 and 6/22/2005, the Examiner is hereby withdrawn those Office Actions in favor of the instant Office Action.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Wick (5,014,851). Wick discloses a packaging assembly in the embodiment of Figures 5 and 6 comprising a card (14) having a top surface and a bottom surface including at least one sealed cavity (23) located on the top surface at the perimeter edge of the card. The cavity is configured to contain oral medical tablets or a tube of medicament (13) (Figure 6).

3. Claims 1, 4, 12, 13 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kerfoot, Jr. (5,390,796). Kerfoot discloses an apparatus (96) in the embodiment of Figures 12-14 comprising a card (12) having a top surface and a bottom surface including at least one sealed cavity (102, defined by sheets 14, 95) located on the top surface at the perimeter edge of the card. The cavity is configured to contain oral medical tablets (53). As to claim 12, Kerfoot further discloses the card has a thickness of 0.003 to 0.005 inch thick (column 5, lines 48-49) which is thinner than the thickness of a credit card. As to claim 13, the top surface of the card

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has writing (27, 35). As to claim 17, Kerfoot further discloses the cavity resealing mechanism for multiple uses (column 2, lines 16-17).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wick (5,014,851) in view of Kerfoot, Jr. (5,390,796). Wick discloses the packaging assembly as above having all the limitations of the claims. It appears from the drawings that the thickness of the card is thinner or the same thickness as a credit card, to the extent that Wick fails to show the card has a thickness thinner or the same thickness as a credit card, Kerfoot teaches a card (12) has a thickness of 0.003 to 0.005 inch thick (column 5, lines 48-49) which is thinner than the thickness of a credit card. It would have been obvious to one having ordinary skill in the art in view of Kerfoot to modify the card so it has a thickness of thinner than a credit card to provide less material during manufacture. As to claim 16, the card of Wick has writing on the bottom surface (Figure 5).

6. Claims 8 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerfoot, Jr. (5,390,796) in view of Wick (5,014,851). Kerfoot discloses the apparatus as above having all the limitations of the claims. To the extent that Kerfoot fails to show the cavity being

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designed to contain a tube of medicament, Wick show a sealed cavity (23) is designed to contain a tube of medicament (Figure 6). It would have been obvious to one having ordinary skill in the art in view of Wick to modify the apparatus of Kerfoot so the sealed cavity is designed to contain a tube of medicament to allow the cavity to hold various types of medicaments. As to claims 14 and 15, it would have been obvious to one having ordinary skill in the art to provide various types of writing on the top surface of the card such as instructions or advertisement to provide more convenience for the user. As to claim 16, it would have been obvious to one having ordinary skill in the art in view of Wick to modify the card of Kerfoot so the bottom surface is also includes writing to provide more convenience for the user.

Response to Arguments

Applicant's arguments with respect to 11/10/2005 have been considered but are deemed to be moot in view of the new grounds of rejection.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Errica Miller at (571) 272-4370. **Facsimile correspondence for this application should be sent to (571) 273-8300 for Formal papers and After Final communications.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lkb
December 16, 2005



Luan K. Bui
Primary Examiner